



NATIONAL TRANSPORTATION SAFETY BOARD
Investigative Hearing

Washington Metropolitan Area Transit Authority Metrorail train 302 that encountered heavy smoke in the tunnel between the L'Enfant Plaza Station and the Potomac River Bridge on January 12, 2015

GROUP	
EXHIBIT	

Agency / Organization

Title

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of:

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WMATA INCIDENT AT L'ENFANT PLAZA
STATION, WASHINGTON, D.C.
JANUARY 12, 2015

Docket No.: DCA-15-FR-004

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Interview of: JAMES DOUGHERTY

WMATA Headquarters
Jackson Graham Building
Washington, D.C.

Thursday,
April 16, 2015

The above-captioned matter convened, pursuant to notice.

BEFORE: MICHAEL FLANIGON
Railroad Accident Investigator

The interviewee was afforded an opportunity to review this transcript for accuracy. Corrections and clarifications are shown in ~~strikeout~~/underline in the text.

APPEARANCES:

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MR. FLANIGON: April 16, 2015. My name is Mike

Flanigon, F-l-a-n-i-g-o-n, with NTSB. We're interviewing Mr. Jim Dougherty, who's Chief Safety Officer at WMATA. And this is in regard to the January 12th smoke and arcing incident at L'Enfant Plaza.

I'll ask my colleagues to introduce themselves.

MR. NARVELL: Rick Narvell, N-a-r-v-e-l-l, with NTSB.

DR. GROFF: Loren Groff, L-o-r-e-n, G-r-o-f-f, NTSB.

MR. GORDON: Joe Gordon, G-o-r-d-o-n, NTSB.

MR. FLANIGON: And, Jim, to confirm, you understand we'll record the conversation and provide you a transcript to look at?

MR. DOUGHERTY: Understood. Thank you.

MR. FLANIGON: Understood. Okay. And how do you spell your last name? Can you spell it for the transcriber?

MR. DOUGHERTY: Certainly. Dougherty, D-o-u-g-h-e-r-t-y.

MR. FLANIGON: Very good. Thank you.

INTERVIEW OF JAMES DOUGHERTY

BY MR. FLANIGON:

Q. And sort of leading off, can you explain when you came to WMATA, how long you've been here, and what your job entails?

A. Certainly. I started at WMATA as the chief safety officer April 19, 2010. I've been here almost 5 years now. My

1 basic job duties are to help and work with all the WMATA staff,
2 including the executive team, the employees of all ranks, external
3 sources, to develop programs, implement programs, and monitor
4 programs for safety; as well as some health duties and
5 environmental management, which would include trending and
6 analysis of events, incident/accident investigations, manage the
7 corporate quality assurance program that conducts the internal
8 safety audits, as required currently by 49 C.F.R. 659; and
9 provide, certainly, guidance and recommendations to the general
10 manager, chief executive officer, as well the WMATA board of
11 directors, which includes typically a quarterly report or what we
12 call quarterly safety report, in a public setting for the WMATA
13 board of directors, specifically the Safety and Security
14 Committee. And as mentioned, that is in a public session, but we
15 are always working and striving for zero injuries and accidents
16 throughout the agency.

17 Q. Okay. And during your almost 5 years here, it's been a
18 time, I know, of significant change with regard to how WMATA
19 addresses safety. What are some of the most important changes
20 that you've seen in your tenure here?

21 A. Well, over the last 5 years, we actually have been
22 working to create a strong safety culture so that it is lasting
23 and has a strong foundation. We have been doing that through
24 reinvigorating, if you will, our safety committees at all levels,
25 from the local safety committees, area safety committees,

1 departmental/division safety committees -- and that's, like,
2 | departmental-~~slash~~/division -- the executive safety committee
3 that I personally chair as the chief safety officer, and up to the
4 WMATA board of directors' Safety and Security Committee.

5 We reissued our safety policy statement to the agency
6 shortly after I came. We rewrote versus revised, the WMATA System
7 Safety Program Plan, which serves as a document like a bible on
8 how we perform our safety business throughout the agency. It
9 notes, and we have been building, but we want every employee in
10 the agency to understand that safety is their responsibility, for
11 themselves, as well as to look after their co-workers, and to
12 report any hazards that they can't personally resolve and report
13 them even if they can so we have the opportunity to look for
14 systemic conditions throughout the agency.

15 And to help with that, we created what we call our
16 Safety Measurement System, or SMS, because the belief has been for
17 safety management systems that humans manage safety. But the
18 measurement system is our database in which we actually look to
19 develop statistics where we can analyze what is happening at the
20 agency, whether we have a single event or a systemic event, and
21 determine any trending and identify corrective actions and
22 mitigations to abate those concerns throughout the agency.

23 That includes various modules, starting with what we
24 call our safety hotline, where any employee can call in to a
25 | safety hotline number, 202-(redacted) is the number that we

1 created for that, and that is an internal number for our
2 employees, and they actually can state if they want to remain
3 confidential; identify a specific hazard, that hazard gets logged,
4 gets assigned to a safety manager, who assigns it accordingly to a
5 safety officer. And it is one of the key performance indicators
6 that the safety department has evaluated for performance, where we
7 strive to close 85 percent of all safety hazards within 5 days.
8 And we work very diligently to do that. And employees can also
9 use our in-house intranet to report a safety hazard if they prefer
10 versus even calling in.

11 We also developed an incident/accident module, which is
12 a database that allows us to see any of the incidents, albeit
13 close call, near miss -- however, I'll talk more about close calls
14 a little bit later -- but a near miss event or an accident event,
15 so that it gets investigated. We can determine if there's any
16 specific hazards related to that particular incident. And from
17 that, the incidents then are populated into a log that the safety
18 department uses that we call our safety officer's on-call log,
19 because we have safety officers that are always on call and
20 responsible to look into or investigate an accident or an
21 incident.

22 And every Monday morning, unless Monday's a holiday, at
23 8:15, I, as the chief safety officer, call a meeting of all of the
24 safety management staff and the on-call safety officers and we go
25 through and we review all the occurrences that had occurred in the

1 prior 7 days and look for any potential trends. Some may be on
2 | the bus side, mirror swipes; on the rail side, if there's ~~a~~
3 station platform overruns, red signal violations, customers being
4 shut in the doors on a regular basis, one of the things that we
5 definitely also look at.

6 And from that module, we have created what we call a
7 hazard management module, where hazards that are identified,
8 either from the on-call log, the incident/accidents, our -- their
9 ability is to check a box and then that populates the hazard log
10 and we then review those hazards to work to mitigate those
11 occurrences.

12 Also, the hazard log is the database storage area for
13 corrective actions that are identified, either through our own
14 internal safety audits or through audits conducted by regulatory
15 or outside agencies such as the NTSB, the FTA, or the Tri-state
16 | Oversight Committee, that is our state safety oversight agency.
17 And we keep that, you know, those events in there.

18 And then from that, we create a monthly report that goes
19 | out under my signature to the ~~top~~-TOC executive committee, which
20 includes the secretary of transportation from the State of
21 Virginia or the Commonwealth of Virginia, secretary of
22 transportation for the State of Maryland, and the director for the
23 District of Columbia's transportation department, as well as the
24 WMATA Executive Leadership Team and the WMATA Board of Directors,
25 where we track any open corrective actions. And once they've been

1 closed for a month, then we do take them off the log that we
2 publicize. And I have an example of that for you to review at
3 your leisure.

4 Q. Okay.

5 A. Let me think. As I'm gaining my thoughts here -- oh,
6 I've also brought the on-call log that we use at my Monday morning
7 8:15 meeting that's actually been conducted for some time. And if
8 I can note, the safety hotline actually was created back in
9 September 2010 for WMATA employee use.

10 Continuing, from the safety perspective, we have created
11 various policies and instructions that are executed by the general
12 manager/CEO's office. A few of those include the policy and
13 instruction for safety committees, electronic device policy,
14 incident and accident investigation policy, fatigue risk
15 management policy, and an hours of service limitations for the
16 prevention of fatigue policy, as well as there's a few others that
17 I didn't include for such things like seatbelt or safety belt
18 wear. We --

19 Q. Good. You're leaving those with us?

20 A. Yes, sir.

21 Q. Okay.

22 A. Yes, sir. These are all for your review and leisure.

23 In my monthly/quarterly report to the WMATA Board of
24 Directors, I include where statistically where we're at, the
25 various trends, and what actions are taken at a high level for,

1 you know, for their information and certainly questioning as we
2 move forward.

3 I will also leave with you a 9 or 10 page document that
4 describes, you know, the various safety achievements that WMATA
5 has made and we believe we made over the last 5 years.

6 One of the other major things that has been done is when
7 I took over the safety department, if I recall, we had 28 budgeted
8 positions, of which only 22 were filled. Today the safety
9 department has 67 positions, with only 2 vacancies at the moment.
10 ~~But we~~ built to strengthen the department.

11 Training was a very, very high priority, to get all the
12 safety staff trained ~~up~~ in what their duties are, what they should
13 be doing as far as safety, how to conduct a good investigation, as
14 well as interviews. And we're finding now, since we've trained
15 folks, ~~since~~ I believe we train them ~~up~~ pretty well, they're
16 taking higher level jobs in other places, so we ~~get to~~ start the
17 cycle. However, we're trying to make sure that our vacancies are
18 limited.

19 We create lessons learned documents after ~~an~~ some events
20 and we communicate those documents out to the staff. And that can
21 be anything resulting from an accident and something that occurs,
22 an employee injury, such as an electrical shock, to even the
23 documents that we put out to alert people to the concern with the
24 most recent Ebola virus so that we can make sure that our staff is
25 prepared, as well as that we sanitize our equipment for the public

1 and that we're following the procedures and we're using products
2 that are effective to work to combat the virus if it were present.

3 We've also publically went out and explained what has
4 been done within the WMATA agency. One presentation that was done
5 some time back that I will leave with you was through the United
6 States Nuclear Regulatory Commission, who put out a paper July
7 | 2011 talking about ~~---~~WMATA's safety culture it's their safety
8 culture communicator, and they reference the June 2009 collision
9 of the WMATA trains at Fort Totten, and then that they've taken
10 | and put out another one on ~~their-~~our safety culture journey for
11 all of 2014 that they actually communicated with us, and they put
12 that out to their employees for their use.

13 Typically, we are making presentations at such groups as
14 the American Public Transportation Association, the National
15 Safety Council. Other groups have asked us to make presentations
16 | in their forums, including: we've presented to NASA and presented
17 to the GSA, or General Services Administration.

18 We commonly are going to local schools to promote
19 safety awareness, often in conjunction with our transit police
20 department, and we also are working to create a stronger, more
21 visible public safety campaign, that you will be seeing everything
22 from television public service announcements to signage and
23 | posters, ~~to-~~ we actually have a firm that's holding signs around
24 | escalators ~~and everything~~ to remind people of safety now, and
25 we'll be presenting more on those details at an upcoming Board of

1 Directors meeting.

2 | ~~But w~~We have worked to continually promote safety. We
3 have a Champions of Safety awards ceremony that is held every
4 year, where we recognize our employees that have exceptional
5 | safety performance, such as 30 years without a preventable
6 accident of any kind. And certainly I believe in this environment
7 and our roads, for one to be a bus driver and go 30 years, even on
8 these roads, and not have a preventable accident in one fashion or
9 another is quite an accomplishment for which they deserve
10 recognition.

11 We have other safety recognition where individuals are
12 recognized at our board of directors meetings for going above and
13 beyond in the promotion of safety, and which at the last board
14 meeting in March, two safety department employees were recognized
15 for the first time in my tenure here. Our fire marshal, Thomas
16 Jones, and a safety officer, Gregory Swaniger, were recognized for
17 potentially saving a lady's life that was desiring to commit
18 | suicide, and they were recognized in-for that.

19 We review, or we safety certify many of the projects
20 that are going on at WMATA. We're not able to necessarily do
21 every one, the smaller magnitudes, since there's typically over
22 200 projects going on at any given time. Today we are working
23 very closely, though, with about 35 of those projects, and where
24 we safety certify those projects to ensure that they're safe for
25 not only our customers, but our employees. And we do enlist the

1 assistance of a couple consulting firms that actually help us,
2 just due to the voluminous documents and the amount of work, and
3 being that it's a verification process not wanting to take away
4 any of the responsibilities of the resident engineers and the
5 engineering staff, we do the verification just to make sure that
6 they've touched all the bases.

7 We, over the last 3 years, have been working very
8 closely on a fatigue risk management system program, recognizing
9 that fatigue can play a major factor in the incidents and
10 accidents. And we have issued our own hours of service policy,
11 that the way we're complying with it so that we're not violating
12 the collective bargaining agreement, if you will, is through
13 scheduling. And that is where the scheduling of the employees,
14 that they -- at this point we're actually going to issue a new
15 policy. No one shall be allowed to work more than 6 days without
16 a day off, and the maximum time that somebody can work is 14
17 hours, with 10 hours off, with the exception of an emergency,
18 similar to FRA would be for an operator.

19 | ~~But that, w~~We actually believe that we are about 95
20 percent compliant. Right now the safety department is charged
21 | with auditing ~~that~~ this program or reviewing where we're at,
22 reporting back to the board of directors. And to do that, we did
23 enlist the assistance of a consultant because we wanted to build
24 our program based on science and data, and so we utilized
25 biomathematical modeling to determine what that modeling should

1 look like within a 24-hour period, be it the day season or the
2 night season.

3 And I can -- the safety department does also review the
4 request for grants through the Federal Transit Administration to
5 actually be able to ensure that the grant dollars are being used
6 to promote safety or safety awareness, that there's definitely a
7 safety benefit for -- I don't know that I would say 100 percent,
8 but close to it, to where we're investing our money for safety
9 improvements, to maintain the system, as well as develop new
10 systems or new components of the system, such as the Silver Line
11 extension, or what's known as Dulles Phase 1 and Dulles Phase 2.
12 And we do apply that review to rolling stock, including buses and
13 trains and other equipment throughout the agency the safety
14 department does have the authority to review and sign off.

15 As well as we're engaged in a strong occupational safety
16 training program that I also have a 1-month schedule for you to
17 look at that goes back in time to actually provide such training
18 as what we call supervisor safety development, such things as
19 blood-borne pathogens, lockout-tagout, confined space entry, and
20 those kind of things.

21 And probably, I don't know that I'd call that a
22 nutshell, but that's what we consider the high-level priorities,
23 as well as I think it's important to note that safety is goal
24 number 1 in WMATA's momentum for the future, or momentum 2025. So
25 it is something that we are not only looking to build for the here

1 and now, we are looking for the future so that we have a strong
2 foundation for safety throughout. And even in our programing now,
3 it's through year 2025, but then even for the long-range planning,
4 through year 2040. So it is something that we're working to
5 really build a strong culture that will last and live on.

6 Q. Okay. Well, good. That's a lot of, a lot of material
7 to -- and a lot of programs to be managing. So it keeps you busy,
8 I'm sure.

9 A. All the time. But I love it.

10 Q. You mentioned the hotline number, and you gave the
11 actual phone number. Is that something that you would want the
12 public to have?

13 A. Preferably not.

14 Q. Okay. So we can redact the actual number.

15 A. Thank you.

16 Q. It's not important. Okay. Just wanted to make sure of
17 that. And then, I know one of the things that we are going to ask
18 you for, you know, beyond the interview is, is for a kind of
19 guided tour of the Safety Measurement System, where we kind of get
20 a real detailed view of how that system works. But I had a couple
21 questions on it.

22 You mentioned that employees can enter information
23 through the intranet, through WMATA's internal portal or system?

24 A. Correct.

25 Q. Which employees have access to that?

1 | A. For the ~~---~~most part it depends on the module. The
2 safety hotline module is typically safety employees and safety
3 staff has access to that due to the confidentiality and nature
4 that can -- you know, what's included in that. However, what we
5 are starting to do now is we are going to provide to all
6 | employees, through a general manager~~,~~ communication. And I don't
7 really know what that's going to look like, but basically what we
8 received and what's been done about it, so we can close the loop
9 for that particular program.

10 For the incident/accident module, all supervisors and
11 above have -- they input and they can also extrapolate the data.
12 We've built some form reports. They can create their own reports.
13 What they cannot do is alter information that has been added
14 unless it's what they added, and even with that, it's for a
15 selected time period before the file's locked, and they would have
16 to contact the administrator in the safety department --

17 Q. Okay.

18 | A. -- to request that file be unlocked. So for those, that
19 data is available, with the only exception if there is a highly
20 visible case where there's pending litigation, and then at that
21 case then we actually reduce the number of individuals that
22 actually can view the files, because others are putting in -- data
23 into the file, until the official safety department report is
24 issued.

25 Q. Okay. So it's not all employees that can access the

1 system and put information into it?

2 A. Correct. They have to have a job need to be able to be
3 able to --

4 Q. Okay. Got it.

5 A. -- enter information and get the information back.

6 Q. Okay. And I know one of the things obviously we're
7 interested in smoke-related incidents. So would smoke-related
8 incidents show up in the system?

9 A. We do have a -- yes. They would show up in the system.
10 Typically what we have are what's called smoke/fire, but then we
11 can delineate which is which, although most of the smoke incidents
12 that are within the system are caused through arcing insulators.

13 Q. Okay. And you can do trending on those? And I think
14 we've already asked for the numbers.

15 MR. FLANIGON: Right, Joe?

16 MR. GORDON: Right.

17 MR. FLANIGON: Yeah.

18 MR. DOUGHERTY: And received, them, correct?

19 MR. GORDON: Um-hum. Yeah.

20 MR. FLANIGON: Okay.

21 MR. GORDON: That's correct.

22 MR. FLANIGON: Okay.

23 BY MR. FLANIGON:

24 Q. So the lessons learned report, would an arcing insulator
25 incident result in a lesson learned report, or might it?

1 A. It might. And I would have to go back, but I believe we
2 did put something out probably about 3 years ago that specifically
3 was with the arcing insulators and the --

4 Q. Okay. Yeah.

5 A. So that's --

6 Q. If that could be one -- well, maybe when we have our
7 sit-down with you, the guided tour, you can show us that as an
8 example of how you could dig into something. That would be good.

9 Let's see. I got that. So which personnel at WMATA get
10 training, if any do, on the incident command system, NIMS,
11 National Incident Management System?

12 A. With the NIMS system, I would have to defer that to the
13 Office of Emergency Management, because in WMATA that falls under
14 Office of Emergency Management, which is a group within the
15 transit -- Metro Transit Police Department.

16 Q. Yeah. Okay. And so going back before January 12th,
17 what mechanisms were in play to kind of facilitate and encourage
18 and allow communication/coordination between police, Office of
19 Emergency Management, operations, safety? Where did that all come
20 together where people understood what each other were doing and
21 how to work together and so forth?

22 A. Sometime back, actually in what we -- we define the
23 events by either -- we look at the potential for a criminal event
24 versus a safety event, or an intended, somebody intentionally
25 intends to cause harm, or the unintentional. And as we looked at,

1 even in our emergency preparedness -- and I'm not sure exactly
2 when, but probably 4 years ago, guessing, that we -- the general
3 manager had, then -- the then-general manager had developed a
4 protocol where we have a disruption conference line. And it was
5 after an event that I believe occurred -- I'm thinking it was at
6 Rosslyn -- where passengers were moved.

7 And the thing is, there's the -- we certainly want to
8 minimize or mitigate the immediate safety for an event, but then
9 we also look at customer service also, which is an important thing
10 that we -- since we move approximately 800,000 people a day on our
11 train, and to where all departments, when I came, and the former
12 general manager were perceived as working in a silo-type
13 environment, was to break down those silos and have the
14 interactive communications. And one of the ways of doing that,
15 aside from his meetings, is any time there was a major event, not
16 necessarily an accident, we have a rail disruption conference line
17 that the executive team, including the general manager, is
18 normally on that call, even though he doesn't manage it. That
19 call's ran by the head of operations, normally the deputy general
20 manager. But all the various departments, including safety,
21 transit police, emergency management, media relations, customer
22 service, and then some of the other subgroups under that,
23 participate in that call so that we're looking at that management
24 of the event in a NIMS type of format or an incident command so
25 that we are all working together.

1 The fire department or D.C. Fire Department in the past
2 would come to our transit, to our control center when it was
3 located here in the Jackson Graham Building, and we had their
4 liaison, if we'll call it that, and then we also had an emergency
5 management liaison. And in a major event, we have a safety
6 department manager, as in the case of the pedestrian bridge
7 incident last night. And so we have the control center
8 management, we have the on-site management that reports to the
9 command center on site with the liaison, or typically we use the
10 term, as in NIM, as the forward liaison that's in that position,
11 as well as then you have the executive team that's on the phone
12 ~~there~~.

13 So what it's doing is it's -- folks have to work
14 together. If they're all together on the phone at the same time,
15 if anybody has an issue, they're asked. We go through a list, you
16 know, any issues -- safe, any issues, media relations, and we'll
17 go through this complete listing and roster, if you will, to make
18 sure that nobody has any issues. And safety is normally the last
19 one called because we, you know, try to get the big picture, the
20 whole picture of everything, looking at not only the event, but
21 then the impact and then the effect of other individuals.

22 And through that, as well as we have our own policy and
23 instruction for incident and accident investigation, if it's
24 noncriminal, where the safety department prepares the official
25 WMATA report for that event, unless an outside agency is doing

1 such that we're not able to do that. We prepare that report. The
2 report is then sent through the executive team to the appropriate
3 folks, and reviewed.

4 One of the things that I can say that we do at the
5 monthly executive safety committee meeting, which certainly I'm
6 proud to note started in June 2010 and there has not been one
7 meeting missed or canceled for any given month, we take a, you
8 know, attendance at that meeting, and our prior general manager
9 typically had perfect attendance at those meetings. And at those
10 meetings, we had the incidents that occurred and I will reference
11 back March 31, 2015. I brought -- basically it's the, you know,
12 the package that we use, that we distribute.

13 And the rail incidents where we have it under item
14 number 5. For rail, we had a report out on unusual occurrence
15 events; red signal overrun; handrail fire; other red signal
16 overrun incidents; near miss, where a customer falls on the
17 roadway; and doors opened the opposite side of the platforms. And
18 on the bus side, we talked about a pedestrian incident, and
19 MetroAccess for March did not have any incidents that we talk
20 about.

21 And we go through the events there. We discuss them.
22 If the general manager or myself are satisfied with the progress,
23 we carry it over for an update on the following month's meetings.
24 And one of the examples, we had an issue with ceiling tiles coming
25 down at our train stations. And until we were satisfied, the

1 general manager wanted that carried on the monthly meeting agenda
2 and recorded in the minutes for the activity that had taken place
3 until we were satisfied that the problem had been fully abated.

4 Within that report, we also talk about fire assessment.
5 Our fire marshal talks about that, those events. And this
6 statistical information is available for use at the department and
7 local safety committee level, where we encourage the use of those
8 for their particular reporting. I'll provide you a copy.

9 Q. Sure.

10 A. I will probably get you one that doesn't have notes on
11 it.

12 Q. What I ask -- those are in front of Rick right now.
13 We'll scan those and attach them to the transcript so that
14 everything you're referring to will be attached to your
15 transcript.

16 What I was trying to get at, actually you mentioned the
17 silos, and I was trying to get at, you know, how -- given the, you
18 know, looking at the incident on January 12th, you had police --
19 WMATA police, WMATA operations, field operations and the WMATA
20 control center. And it seemed that in some cases, there wasn't
21 quite the communication that there could've or should've been,
22 that the control center had a plan to reverse ends, move the
23 train, move the train out of the platform. The police plan was to
24 evacuate the station, including the train operator from the train
25 that could be moved. And the operations folks on site were

1 basically following the lead of the police, who are the -- I know
2 under your procedures they are the, you know, the incident
3 command.

4 A. Yes.

5 Q. And so I'm trying to get at, you know, how non-siloed
6 are these different groups in WMATA? And what are the mechanisms
7 that allow them to not be silos. And so what I heard was that
8 once a month there's an executive committee meeting, right?

9 A. Safety committee. Yes, sir.

10 Q. Well, the executive staff meeting, right? Or --

11 A. Oh, well, we have an Executive Leadership Team meeting
12 typically twice a month.

13 Q. Twice a month? And that's when all those players are at
14 the table?

15 A. Not all of them. But the heads, the department heads
16 are at that table.

17 Q. And then they're also at this safety committee,
18 executive safety committee?

19 A. Correct.

20 Q. And then there's a telecom when there's a major event
21 like the Cherry Blossom or -- it doesn't have to be an accident or
22 incident; it could be just the Cherry Blossom, you're going to
23 haul a lot of people, or there's a big, you know -- the World
24 Series if the Nats ever got it together, you know?

25 A. Capitals might, but --

1 Q. Yeah. So, and so how often do those calls happen? Just
2 several times a year? Once a month?

3 A. It depends on the events. But normally several times a
4 year. I would venture out some months more frequently than
5 others, but I would probably say almost on an average we probably
6 have a couple times a month the rail disruption conference line,
7 because it doesn't have to be just because of an accident or an
8 event. It can be a service interruption, whether it's a downed
9 train --

10 Q. Yeah.

11 A. -- that's, you know, between stations or going to be
12 stuck in a station --

13 Q. Right.

14 A. -- at a platform for an extended period of time. And
15 then in our business typically an extended period of time is right
16 around over 7 minutes, that we're going to have an event. So if
17 we're expecting much over 15 minutes -- but a lot of that basis
18 then is certainly safety is always --

19 Q. Yeah.

20 A. -- considered what it is for -- to make sure that the
21 customers are aware, if they need to make other arrangements.

22 And with the event that occurred, you know, specifically
23 | on January 12th, ~~I will say~~ I was on that conference call. I was
24 with some of the executive staff until 12:38 in the morning
25 January 13th. And from where we were seeing, you know, and the

1 coordination and you say, you know, the -- there wasn't a silo-
2 type effect, certainly at that level.

3 Then we found out sometime after that there were some
4 field issues that had occurred, you know, and other -- you know,
5 as you know, that we're not figuring out why those field issues
6 occurred. There's considerable training for WMATA staff, which as
7 you know we're going to look at that training, is it adequate; is
8 | it enough. You know, more drilling down than what we've done.
9 We've had a couple exercises originally with the open of the
10 Silver Line, with multiple jurisdictions. And for the most part,
11 it seems to work really well. Everybody understands that upon the
12 local fire department arrival, they are the scene command, with
13 the exception if it would be a terrorism attack and that would
14 transfer to the FBI. But typically these incidents are on-scene,
15 managed locally by the fire department, and there were some issues
16 that I may not personally be aware of all of them. I've heard of
17 some, as you've -- may have greater knowledge.

18 But that we can do better. A lot of us can always do
19 better in incident response. In that particular incident I'm not
20 sure that the magnitude of the event was understood by all. And
21 that's, I gather, you know, from what I -- you know, from me being
22 in the headquarters on a telephone versus being at the scene until
23 the next day, you know, it's just a -- I don't know a lot of
24 folks, and I can't speak for the folks that were even in our rail
25 operations control center since I wasn't there, is the

1 understanding of the magnitude.

2 As I see it, there are smoke events that occur, many
3 throughout the year, or several -- let me change many to several
4 -- that normally do not amount to a serious event or an emergency,
5 where this one, this one particular incident --

6 Q. Yeah.

7 A. -- you know, was a very serious event, in an emergency.
8 And maybe -- and I'm just, you know, speculating from my years in
9 the safety business, that folks, possibly all agencies didn't
10 realize it as serious as it was and didn't respond accordingly if
11 they would've known it was something, God forbid, such as a crash.

12 Q. Yeah. Okay. Now, you talked a little bit about the
13 training and exercises. And that, as I understand it, is
14 coordinated by the Emergency Management Office here --

15 A. Correct.

16 Q. -- here at WMATA?

17 A. We participate. They --

18 Q. You participate. And I know that as part of your system
19 safety program, you do internal reviews of different elements of
20 the --

21 A. Yes, sir, of the --

22 Q. -- the operations. When was the last internal audit of
23 that function, emergency drills and, you know, emergency
24 management function basically?

25 A. I'll have to check and let you --

1 Q. Okay.

2 A. -- get back to you. Because we base it on a 3-year
3 cycle, the 21 different elements that we look at, and I'm not sure
4 exactly when theirs was last.

5 Q. Okay. Well, maybe --

6 A. I believe it was a while ago.

7 MR. FLANIGON: Did we ask for the internal safety audit?
8 I don't think we did.

9 MR. GORDON: I don't believe so.

10 MR. FLANIGON: Yeah.

11 BY MR. FLANIGON:

12 Q. So maybe if you could just provide for us the last two
13 cycles of the audit reports? And we'll peruse it, I guess.

14 A. I have to --

15 Q. That's where the answer --

16 A. Just to be upfront, I may only have one. Because before
17 I came here, they weren't being done maybe as prescribed.

18 Q. Okay.

19 A. So we're on actually the second cycle in my tenure now.

20 Q. Okay.

21 A. You know, getting the -- hopefully wrap that up in the
22 next year.

23 Q. All right. Well --

24 A. But I'll get you what we have.

25 Q. Get -- yeah, what you have will be perfect.

1 Okay. The TOC, you know who the TOC is obviously?

2 A. Yes, sir.

3 Q. So in terms of their visits to WMATA, what proportion of
4 those visits are what I would characterize as field visits, where
5 they're out looking at train operations, maintenance of the
6 system, those kind of things, versus what I'd call office visits,
7 looking at documentation and meeting with you, meeting with other
8 managers?

9 A. I would -- I can go back and count up, but I probably
10 would speculate, from what they tell us, they probably conduct
11 about five or six a year, field visits.

12 Q. Five or six field visits --

13 A. A year.

14 Q. -- where they're examining equipment --

15 A. Examining equipment. Okay, normally they do --

16 Q. -- operations --

17 A. -- what they call a -- they normally put that under what
18 they call a special review, and when they're going out with their
19 consultants. But I -- you know, maybe I ought to revise that.
20 Within a recent -- with the Silver Line opening and the railcars,
21 they have made more frequent visits for that intended purpose.
22 But I would say on an average of five or six a year.

23 Q. Okay. Good.

24 A. And I do have a letter, actually, from one of their
25 members thanking us for our diligence for the 7K cars, that I'll

1 share with you, from the Maryland representative.

2 Q. Okay. All right. That's good. Thank you.

3 Now, there are -- I guess it's called employee
4 engagement survey or --

5 A. Yes, sir.

6 Q. And this would be the, trying to take the pulse of the
7 organizational culture, you know, or what people are seeing and
8 feeling and thinking and so forth?

9 A. Yes, sir.

10 Q. Which department coordinates that effort?

11 A. The first time it was done, which was in the fall of --
12 summer/fall time frame of 2010, and it was purely a safety survey,
13 and that was conducted by the safety department through the
14 assistance of a consultant at that time, the Corporate Executive
15 Board, and that survey focused 100 percent on safety. If my
16 memory serves me right, that was about 60 questions on safety that
17 we anticipated individuals could complete in just about 30
18 minutes, and they were compensated for completing that.

19 That was started also with a contest that we did for
20 certain groups where we, you know, had a drawing for the various
21 groups. There were about 10 different groupings that we clustered
22 and then we had a drawing for an award, if you will.

23 In 2012, the survey in 2012, in 2014, those two surveys
24 were conducted by the human resources department, and for those
25 surveys, 10 to 15 questions, depending on the year. We took and

1 tried to identify core questions that we could use, using the 2010
2 safety survey as the baseline survey. And then by, you know,
3 pulling down 10 to 15 of the same questions of what we initially
4 did, so that we could actually do a comparison in 2012 and 2014.
5 And that was handled by human resources under a contract with the
6 Hay Group.

7 Q. Okay.

8 A. And the 2014 was just released. I believe Lou Brown,
9 our assistant chief safety officer, sent you the results. And
10 what we're doing, we actually did provide those -- we were -- it
11 was stated that we didn't provide enough to the employees last
12 time, so we actually did an employee communication that went out,
13 and I believe that was under the general manager's weekly.

14 Q. Okay.

15 A. The general manager sends out a weekly communique. And
16 I can tell you from -- the safety component is it's been
17 tremendously improving. It did from '10 to '12, and then there
18 was a slight improvement from '12 to '14 because we were in the 80
19 percentile for improvement when it came to safety in that survey.

20 Q. Okay.

21 A. And then you may be aware that the FTA, as part of their
22 safety management inspection, conducted another survey of -- I
23 don't know how they did it -- of the Local 689 employees. But we
24 do not have that response, results yet.

25 Q. Okay. And how do -- what kinds of changes get made as a

1 result of this survey?

2 A. You know, I can tell you certainly at the executive
3 level the changes that are made. That's -- the department heads
4 have to identify two areas out of those surveys that they are
5 going to work on to improve, typically after those surveys. And
6 then that has -- the agreement has to be made between that direct
7 report and the general manager/CEO of what one is going to do to
8 work on those, the survey results.

9 And I would speculate, which I don't know that I should
10 be doing, but I imagine if someone had more than two areas that
11 required significant improvement, they may be charged with having
12 to add those to their list of things to do also. But they are
13 monitored and we do report back to the board of directors and the
14 employees on the improvements.

15 Q. Okay. And how do you make that report? Does that go to
16 the safety committee or to the full board or how?

17 A. It does not go to the safety committee, and I'd have to
18 look if it went through customer service operations or finance and
19 administration.

20 Q. Okay.

21 A. It goes -- that's not --

22 Q. Is that a written report to them or a verbal report?

23 A. It's a PowerPoint with a verbal presentation.

24 Q. Was that in the package that Mr. Brown sent to me? Do
25 you know?

1 A. He included what was included as the overall snapshot
2 from the survey.

3 Q. That would've been what was presented to the board?

4 A. To the board, right --

5 Q. Yeah. Excellent.

6 A. -- and we gave to our employees.

7 Q. Yes. Great. Thanks.

8 Do your folks, when they work in the field, they use the
9 WMATA radio system?

10 A. Yes, sir.

11 Q. How do you think that system works, from either your own
12 experience or feedback from the people that work for you that use
13 it?

14 A. I believe, and I'm going to add my years of being a
15 sworn police officer also to that, that it -- that the radios most
16 of the time work. There are some dead spots. There's some out-
17 of-range spots and, you know, in that system the radio tells you.
18 And I, for one, typically carry my portable radio most places I
19 go. If I'm on our system, I have my radio on and I report if I
20 get an out-of-range alert, or some people call it the bleep or the
21 bump or the buzz or whatever, because my LCD screen goes from
22 green to red and it makes a noise. And we report that. And then
23 our systems maintenance folks, the radio group, repair it.

24 But from my experience, and I will say that I have my
25 radio with me pretty frequently, I don't have a whole lot of the

1 issues that others are experiencing. But I will say that if I'm
2 riding, for example, an Orange Line train from end to end, there
3 are probably two locations on that trip invariably that I will get
4 an out-of-range signal on that radio.

5 And I can just -- you know, my experience with radios,
6 there are dead spots that I know we're working on and I don't know
7 that -- we're going to try to get as perfect of a system as we
8 can, but I think, as all of us know, that if you use a GPS in
9 downtown Washington, D.C. sometimes it takes a whole lot of time
10 for you to get a signal, you know, coming back. Now, that's
11 coming from a satellite versus a cell tower. But we are looking
12 at, you know, replacing the radio system. I know that there were
13 challenges in -- that we had in getting our frequency assignment
14 through the Federal Communications Commission that has now been
15 resolved, and we will work quickly to update that system.
16 However, quickly is still going to be multiple years due to the
17 magnitude of the work.

18 But the radio system does have its points of failure;
19 however, there's also sometimes that if individuals don't make
20 sure that the batteries are charged and it's in good working order
21 and -- that you're going to have problems. But the radio system
22 certainly we're operating as, I believe, on 470 megahertz and may
23 benefit from moving to the 700 megahertz system. But I do know
24 also, with my experience of being on an 800 megahertz analog and
25 digital system, that you still have outages sometimes on any

1 wireless communication.

2 But I think the -- one of the things that we have here
3 is all of the different responding agencies are on different
4 either frequencies, channels, or ~~FOC~~-talk groups, depending on
5 what it is, and that's why we need the liaisons together because
6 they aren't hearing the traffic from, I'll say, partner public
7 safety agencies, the radio traffic on that that can come up.

8 But there's a noise factor. There's a noise
9 consideration, and I would like it to be as perfect as it can and
10 -- but I know that I have seen in my tenure here the radio system
11 has greatly improved from where it was. And I would even venture
12 to say that it maybe is certainly better than some of my previous
13 businesses.

14 Q. Okay. Good. That's all I had for now.

15 MR. FLANIGON: I'm going to ask my colleague across the
16 table to take over.

17 BY MR. NARVELL:

18 Q. This is Rick Narvell from NTSB. Just a few, Jim.
19 You've been here 5 years this Sunday?

20 A. Yes, sir.

21 Q. In your time here, what do you see as the main safety
22 issues or concerns right now?

23 A. My greatest, you know, and I'm talking from certainly
24 the chair that I sit in --

25 Q. Right.

1 A. -- is I always, and I think that's in any business, I
2 always worry about complacency. I worry about keeping up -- you
3 know, one's loss of situational awareness as to what, you know,
4 what's happening in their surroundings. I worry a great deal
5 about various distractions that we have, cell phones being one,
6 although WMATA probably has one of the strictest policies on
7 distracted driving.

8 And I think also we've made considerable progress in
9 fatigue, because that's always a concern, as any time you have
10 individuals that live in a, let me just say, in a housing market
11 that's quite expensive, wanting to be able to make their -- pay
12 their bills, there's sometimes a need where they take on secondary
13 employment to be able to do that.

14 And you know, from that, I look at that, as well as our,
15 I'll just say, continued partnership with the oversight agencies.
16 I definitely believe that we have to -- I know there's an
17 oversight. That's what the job and the function is.

18 (Phone ringing.)

19 MR. DOUGHERTY: I'm sorry. Can I take this just a
20 second, please?

21 MR. FLANIGON: We can pause this.

22 (Off the record.)

23 (On the record.)

24 MR. FLANIGON: All right. We're back after a short
25 break and Mr. Rick Narvell was asking some questions

1 Mr. Dougherty.

2 BY MR. NARVELL:

3 Q. All right. So just to kind of summarize in this area of
4 questioning, Jim, some of your concerns you've indicated certainly
5 distractions, complacency, fatigue and --

6 (Phone ringing.)

7 MR. FLANIGON: Well, we're going to take another short
8 break.

9 (Off the record.)

10 (On the record.)

11 MR. FLANIGON: Okay. Mr. Narvell?

12 BY MR. NARVELL:

13 Q. Okay. So, and to just real quick, some of your
14 concerns: fatigue, complacency, distractions and, of course, the
15 interaction and oversight by the TOC are your concerns. That's
16 what you --

17 A. Yes, sir.

18 Q. Let's talk just quickly about the safety hotline. Mike
19 had asked you about that previously. What are you seeing or
20 hearing? What does that capture? What type of issues or concerns
21 does that program capture?

22 A. Now most of the events are minor, and by minor I mean
23 that folks that will call into the hotline for a hole in a fence.
24 Of course, that can be serious, depending on what that occasion
25 is. They will call about a concern with a, possibly a co-worker

1 or a supervisor.

2 Q. Yeah.

3 A. Sometimes it gets out of the realm, if we will, for the
4 common safety and, you know, we're seeing things now that are
5 being caused through security incidents that individuals are
6 concerned about, for example, bricks, rocks getting thrown through
7 bus windows. Now those are some of the events.

8 But we've had calls from such things as safety vests
9 being out of stock in inventory. They're on a, I would say, a
10 lower magnitude. Because normally if it's of a serious magnitude,
11 I feel, to me, one of the indicators of a safety culture is when
12 employees feel comfortable sending me emails and calling me
13 directly and personally, and things that come in through the
14 general manager, and where we've gone out and met with employees
15 and, in a case or two, within 3 hours of them calling us to
16 investigate a concern that they have. Most recently, it was with
17 the 7000 series cars, that we hadn't trained the right people.
18 Those things get called into the safety hotline.

19 If it's a chemical or product, since we run the, you
20 know, the chemicals, the hazard communication program for the
21 agency, and now they're not MSDSes, but SDSes.

22 Q. Right.

23 A. And the -- actually the events are not -- we're not
24 seeing things of great magnitude, but -- I believe we're providing
25 you a list that takes the names out -- but some would be even

1 | condition and water testing, a parking ~~booth~~-issue, air
2 conditioning in a kiosk, pouring and mixing of a chemical an
3 employee said made them cough, having gloves available for cold
4 weather wear, a pipe bursting in a facility, working in cold
5 conditions. In the wintertime, we had a no heat in the kiosk.

6 Q. Okay.

7 A. Those kind of things that are, you know, they're a
8 concern to employee, but it's their -- sometimes it's their
9 quality of work, their quality and comfort, as we like to say,
10 because we definitely like to be comfortable and should be as
11 comfortable as we can in our work, as long as we're getting our
12 work done. So often those are some. Sometimes we'll get five
13 calls on the same thing if you have that same five individuals,
14 station managers, for example, working in the same kiosk.

15 Q. Right.

16 A. I've gotten them for mice in the kiosks and for, you
17 know, other rodents. So that's -- and we report, I report on
18 those safety hotlines in my one-on-one with the general manager
19 every month. And we are going to begin also publishing a report
20 or communicate to all employees that will not breach anyone's
21 confidentiality or identity.

22 Q. Okay. So it sounds like a wide variety of calls that
23 come in for various things?

24 A. Correct.

25 Q. Okay. You mentioned safety certifying 35 out of some

1 odd 200 projects. What criteria do you utilize to say this
2 particular project will get that level of attention, as opposed to
3 another one?

4 A. That is due to the magnitude of the project, the -- what
5 is the impact or what can be the impact to employees or customers.
6 And we have actually a level table, if you will, that we've
7 developed. And then we do safety certify all projects that are
8 required under the FTA rules, and I believe that's the 5800.1
9 circular that deals with safety management, safety management
10 plans. And so the larger projects. But typically every project,
11 I believe, now that we have that's over \$100,000 gets done.

12 What may not get officially safety certified is a
13 modification or a small renovation of a facility, although our
14 fire marshal still looks to make sure that we're complying with
15 the fire codes, for something along that line. Even though it's
16 not a safety certification, we want to make sure that life safety
17 is always considered in all projects that we're -- as folks are
18 deciding to build out, renovate, anything along that line. But we
19 don't do an official formal certification.

20 Q. So it sounds like some are automatically triggered or
21 tripped by the requirements of a contract or a job and the other
22 ones are some type of a risk assessment is done, correct?

23 A. Correct.

24 Q. Okay.

25 A. And we look at that.

1 Q. Smoke incidents. You mentioned that a lot of them are
2 related to the arcing issue?

3 A. Arcing insulators, yes, sir.

4 Q. Insulators. Is there any kind of a program here at
5 WMATA that is looking into these, this issue of arcing insulators?
6 And if so, could you kind of describe or discuss that a little
7 bit?

8 A. For one, there's a program, and I would certainly defer
9 to our deputy general manager of operations, but we are on a
10 replacement project of all insulators throughout the system. And
11 we're going with new insulators that are -- that do the job as an
12 insulator, but reduce those occurrences. And, you know, certainly
13 that, my belief, when you take and you put an insulator and then
14 you have a 750 volt power source on top of it and then add
15 something like rain and water, then your potential certainly
16 increases when we're mixing electricity and a liquid such as water
17 or something along that line.

18 Q. Okay. Good. And Jim, my last question for now is do
19 you have occasion to interact with your counterparts on other
20 transit properties around the country: SEPTA, the MARTA, CTA,
21 TriMet, et cetera?

22 A. Yes, sir, quite frequently. Quite honestly, with SEPTA,
23 with New York City even, and Miami, Chicago, New Jersey Transit,
24 Philadelphia, I spoke with their -- well, I emailed twice this
25 week already with their chief safety officer.

1 Q. Okay.

2 A. Title's a little bit different. As well as I'm actively
3 involved in the National Safety Council, as well as in the APTA,
4 the America Public Transportation Associations, various
5 committees, and then we have also even created our own committees,
6 if you will, within transit that's not in a formal setting, but
7 just yesterday solicitations out for who wants to host the next
8 one on rail. And then we had even one of the folks from the
9 Federal Railroad Administration that wants to participate in that
10 committee. So we actually have one on the bus side, we have one
11 on the rail side.

12 Q. Okay.

13 A. We used to participate actively in what was known as the
14 FTA safety and and security roundtables --

15 Q. Right.

16 A. -- which met twice a year, and but now those seem to
17 have been disbanded.

18 Q. So is this some type of a standing committee that you're
19 just referring to here, or is that something new or --

20 A. The APTA and the Safety Council are standing committees.
21 Within those groups, APTA, we have a bus safety committee --

22 Q. Right.

23 A. -- a rail safety committee, a COPS committee, which is a
24 committee on public safety. And then there's other various
25 standards committees that our assistant chief safety officer,

1 Lou Brown, will be going to next month and spending a couple days
2 with the APTA Standards Committee and interfacing with that group.
3 So it's not even just at my level. It's actually gone down to
4 multiple levels within the agency. And it's not even just the
5 safety department. WMATA's very active within APTA and was
6 recognized with the APTA Gold Award for Rail Safety last year.

7 Q. Okay.

8 A. And so we are -- definitely we stay current. There's
9 various different web servers and -- oh, what am I thinking of now
10 -- the network emails that we get multiple times a day. There's a
11 member at the FTA Transit Safety Oversight office that sends out
12 anywhere, I think, from 10 to 50 blurbs a day on what's happening
13 around the world, primarily in the country, that's happening with
14 New York. But we do share information and even with -- last week,
15 I conversed with two agencies on notice of proposed rulemaking on
16 state safety oversight and another one on safety certification
17 training, but that one actually is beyond the notice of the
18 advance notice of proposed rulemaking.

19 So we converse regularly. I also serve, I forgot to
20 mention, on the FTA, US DOT, Transit Advisory Committee for
21 Safety, and have served on that committee since its inception 4
22 years ago, I believe, or 4½ years ago, where we meet typically
23 face to face twice a year, and then we have -- well, right now
24 we're running on about monthly phone calls. And then we're
25 actively -- active participants in not only hosting, but in

1 providing instructors for the US DOT, FTA Transportation Safety
2 Institute's training.

3 WMATA hosts six to eight courses a year, which are 3 to
4 4½ days in length. And I'm not even sure how many instructors
5 that we have in the company, which I believe are close to 10,
6 including myself. I've come off of my, I guess, my 6-year
7 sabbatical and I've been asked to actually instruct in the safety
8 management system program.

9 Q. Great. Thank you. That's all I have for now.

10 BY DR. GROFF:

11 Q. Loren Groff, NTSB. You talked a lot about a variety of
12 different safety programs. I have just some questions regarding
13 how they kind of work together and interact maybe.

14 You mentioned the -- sort of reviving the local, the
15 program of local, department and executive safety committees. And
16 we've heard reference to that being a DuPont, originally being a
17 DuPont program. Is that true or is that --

18 A. That's correct. Originally, before my time, WMATA had
19 entered into a contract with DuPont following, you know, their
20 program, which was known as STOP, and then they have what they
21 call Work Safe that they developed with WMATA. We looked at the
22 program and where that program was, where it was going. I believe
23 it did very well in our maintenance shops; however, it didn't have
24 the same progression and advance through transportation, if you
25 will.

1 So when that contract ended, we took what we had learned
2 from DuPont, and then we also created our own program that we call
3 SORTS now, which is a Safety Observation Reporting Tool. That is
4 one of those modules in the SMS, where we can monitor -- or
5 actually, I should say, that it's a positive and negative, but,
6 you know, recording of observing someone working safely or not
7 working safely. It is also one of my typical, one of the things
8 that we talk about in my one-on-one with the general manager that
9 gets reported out that's made available to the departments.
10 That's one of the programs they can see how they're doing within,
11 you know, within the program.

12 It's stronger in some areas, in, for example, bus
13 maintenance, very strong with that program, actually always. If
14 there's a flaw in it, I hear about it normally right away. But
15 some of our other departments aren't quite as in tune, I guess, to
16 using the program. And so that's -- we do have that program and
17 that is supposed to be an active part of the local safety
18 committees.

19 Q. Okay.

20 A. And I can tell you at the department levels, it is
21 discussed more frequently. And then occasionally at executive,
22 but that's more if there's an issue. If we're seeing a gleaning
23 issue, when I would report to the general manager that we're
24 seeing, you know, like safety infractions and that we have a, you
25 know, tall bar on a bar chart, he'd want to know what they're

1 doing about it, and then I normally had to get back with him by my
2 next one-on-one.

3 Q. So the acronym I think had an O in it for observation?

4 A. Yes.

5 Q. Who does those observations?

6 A. The observations are made by the supervisors.

7 Q. By the supervisors?

8 A. They are the ones that are charged with making it. And
9 it can be anybody. I mean, it can be myself. The challenge that
10 we had before is if somebody made an observation on one of the
11 things in a department that wasn't their own, or even a group that
12 wasn't under their span of control, if you will, then they
13 couldn't see that data. Now they can see that data, everything
14 for their group, because we built that as part of our safety
15 observations program, the SORTS program, which is part of the SMS,
16 which is a SharePoint-based platform.

17 Q. So just so I understand that, let's say I'm in a totally
18 different department but in the course of my work I see something
19 in another activity that concerns me and I report it, the
20 supervisors in that department would see that observation? Is
21 that what you're saying? Or that I would be able to see all
22 the --

23 A. If you saw -- so let's say you were here and you worked
24 in my department and you report, then I could see what is in that;
25 you can request it for the other department. But what we wanted,

1 and I would have to confirm that it's actually been done, that
2 others can see in other areas, they just can't edit --

3 Q. Okay. Okay.

4 A. -- what's there. Because since we have the, you know,
5 the control of the system where we get to manage it, where
6 DuPont's system we didn't, of course unless we paid a fee, we
7 didn't have that benefit.

8 Q. And you said they should be -- they would be getting
9 positive and negative feedback? If you see somebody do something
10 good, they should -- they get to hear about it as well?

11 A. Yes, sir.

12 Q. About what time did that contract run out with DuPont?
13 Was that before or after you started?

14 A. Oh, it was after. It was a couple years after. I
15 believe they were 3 years into it and I was here for the last 2
16 years of it, but it's --

17 Q. All right. Thanks. How about the safety management
18 system, you mentioned there's several different modules to that.
19 You said that the hotline reports feed into that. The
20 accident/incident investigations feed into that. How about the
21 close call or near miss reports; do they feed into that as well?

22 A. Near miss does. You know, for -- and we kind of have a
23 slight differentiation. So the near miss, being the ones that we
24 would know about without the employee reporting it to us because
25 either our AIM system or SCADA --

1 Q. Oh, okay.

2 A. -- picks that up, so then we can have a near miss. Yes,
3 that feeds into the program, because somebody has to input it,
4 obviously --

5 Q. Right.

6 A. -- it doesn't get added. And then if there's a hazard
7 that's identified, then that moves to the hazard management module
8 or -- I mean, you know, you click a button and it moves it into
9 that module and then gets an assignment for that specific event
10 that's out there and it allows us to look for commonalities.

11 And what was the -- you had asked --

12 Q. Well, the close call and near miss, and it sounds like
13 maybe there's a distinction between that and maybe if you could
14 just explain the distinction?

15 A. The close call is what we have an MOU with the Local 689
16 for the rail operations group.

17 Q. So the actual close call program is separate from how
18 you're defining the near misses?

19 A. Yes, sir. Now, we do have a member on the peer review
20 team of the close call, but as you know, that's a confidential
21 program, that all I get -- the output I get are the
22 recommendations that we're going to -- the corrective actions that
23 we're going to implement. So it's all been filtered to where you
24 don't have the identity, and then it gets assigned and then we
25 produce -- I should say the deputy general manager of operations

1 office, a lady, Adrienne Harley, produces a quarterly report from
2 the close call program. But then the tracking of those corrective
3 actions then, if you will, that goes into the hazard management
4 database.

5 Q. Okay. So that same SMS database that --

6 A. It is. Same SMS, but somebody has to give it to us to
7 input it in.

8 Q. Right. Okay.

9 A. So in our contracts with BTS and --

10 Q. So you're -- so the output of the close call reporting
11 system feeds in and that's, if I make sure I don't put words in
12 your mouth, but it's because of the way the close call reporting
13 system is set up and the confidentiality of it -- once it's at a
14 point where it's no longer confidential information, that de-
15 identified information can, the results of that, can go into the
16 system?

17 A. Correct. And it's normally the identified findings, you
18 know, that result in the corrective actions. So that's what we --

19 Q. So the corrective action plans, it sounds like it -- you
20 can come up with a corrective action plan for something that was
21 not an actual event, that it's -- is that true?

22 A. That's true. Yeah. It doesn't necessarily have to be
23 an event if you -- we prefer that it's not an event.

24 Q. Yeah. Sure. Okay. So how about something like -- I'm
25 trying to get an idea of the threshold. How about something like

1 the radio systems? We've heard a lot about the radios. Is that
2 something that could end up with a corrective action plan?

3 A. Yes, sir. That's -- if you see right here, the radio
4 communications has probably been on our executive safety committee
5 agenda for a couple years now and we get a monthly report out
6 because it was identified actually without it. It was reported
7 sometime -- I'd have to go back to find out when we even reported
8 it as a hazardous condition to the TOC.

9 Q. Okay. So even something that's sort of persistent can
10 end up on one of those plans?

11 A. And that will carry undoubtedly every month in this
12 committee until the system is replaced.

13 Q. All right.

14 A. And functioning properly.

15 Q. Great. That sounds good. How about the -- we've heard
16 about this discipline matrix. And do you know anything about
17 that? Does that interact with you at all?

18 A. No, sir.

19 Q. Okay. One of the things we've heard, and if -- maybe
20 you don't have any opinion or anything to say about it. One of
21 the things we've heard is maybe some concern about retaliation and
22 discipline with regard to reporting certain things.

23 And is there, within the close call reporting program,
24 is it clear what things may lead to discipline or not, if they
25 make a report of something that the individual was directly

1 involved in?

2 A. That's clearly identified in the MOU between WMATA
3 management and the union, yes, sir.

4 Q. Okay. And in that, do you know anything about whether
5 that, in that more recent activity with the disciplinary matrix,
6 whether that has made -- if that includes any acknowledgement of
7 close call reporting in there?

8 A. I don't know of any, but I -- probably wouldn't, to
9 be --

10 Q. And that's fine. That's --

11 A. -- frank.

12 Q. It's beyond --

13 A. I try to separate safety from discipline and blame, to
14 where we look at, you know, globally addressing it and --

15 Q. Sure. Sure. One of the things we get a little bit of a
16 sense of in talking to employees from a variety of different areas
17 is that there are some different -- differences in sort of the
18 attitude and perception of how well things are going. And I guess
19 I just, as an open question, ask you what your thoughts on -- or
20 which areas, let's say, track operators versus maintenance versus
21 others, where are the areas that need more help than others?

22 A. As far -- okay, let me, as far as what's --

23 Q. In sort of their perceptions of safety, how safety has
24 been improving or their, maybe their concerns about discipline or
25 retaliation or anything like that?

1 A. In my opinion, I guess, and this is purely my opinion,
2 is in looking at it in the communications that I have with
3 employees, I personally believe that it's a relatively small
4 number, maybe some that are in jeopardy of discipline or a sort
5 already. Because when I -- one of the things that I like to do is
6 I do like to interact with the employees frequently. It's not
7 uncommon for me to go out on one of our jobsites on a weekend
8 shutdown. And the supervisors have been great. I don't ask them
9 to stop work. I don't want them to necessarily stop work.

10 But they normally huddle their group around and we give
11 them a, you know, a safety moment briefing that they ask me if I
12 would be willing to do. And if there's a complaint -- I will tell
13 you that people don't seem to have a problem complaining, and with
14 our over 12,000 employees today, I think for the numbers that I
15 see and with the 60-some folks in the safety department that are
16 out hearing from the employees, I think it's definitely less than
17 1 percent.

18 I think that we do look at -- I do get involved if there
19 is a claim for retaliation for doing something safely, you know,
20 for somebody that feels they're doing something safely and they're
21 being disciplined for that. So then those do come, you know, our
22 way for evaluation to look at. We don't investigate for the
23 retaliation. We investigate for the safety concern. And I
24 believe that we have probably only had maybe three of those in the
25 last year that we actually go and we evaluate for safety concerns.

1 The rail has, I think, the beauty of another program,
2 our roadway worker protection, where an employee can file a good
3 faith challenge. And that stops work right there, good faith.
4 And as long -- and the thing is, it's a good faith challenge, work
5 stopped. I don't know of somebody being retaliated against for
6 that. To be naïve and say that it never goes on, I think that
7 that would be a naïve --

8 Q. Sure.

9 A. -- naïve statement for me to make. However, I think
10 it's minimal. I know that the folks know that if we investigate,
11 we, the safety department, we are going to be neutral. We are
12 going to be unbiased. And as I like, you know, that I say, let
13 the chips fall where they may. And if there's a concern,
14 accordingly then we act upon saying this was a true safety concern
15 or this seemed to be more of a gripe than a safety concern.

16 And I know that right now that even within our -- some
17 of the represented group, that assaults on employees and public
18 safety is getting lumped into the safety culture, a title that
19 I'll put in quotations, is -- you know, because it's -- and again,
20 we're going back to the intended acts, unintentional acts. From a
21 safety ~~component~~standpoint, if we're providing service in a space
22 that somebody throws a brick through the operator's window and
23 hits the operator, truly, that's their personal safety. There's
24 no doubt about that. But what programs -- you know, we look at
25 what we can do to improve upon that, but we can't -- you know, you

1 can't have somebody every place.

2 But I think it's, getting to your retaliation, to me
3 it's -- I'm not saying it doesn't happen, but I'm saying it's a
4 very small number of folks. The discipline, as I've said, I
5 typically -- the safety department doesn't get involved in the
6 discipline, with the exception, I'm going to say, that if there's
7 a flagrant violation, we want to make sure that there's a
8 corrective action taken. I'm not saying that, you know, that John
9 gets suspended for 30 days or what that case may be, but that
10 we're also -- that on the other side of retaliation, that there's
11 not favoritism, that something's been done and we're not
12 correcting the issue so that we don't have a reoccurrence if it
13 falls into the, you know, to -- and I hate to say it, but the
14 human error part of it that occurs.

15 But we do, we look at it and we don't -- and I feel
16 confident when I can tell you that from a safety perspective, we
17 look at it truly from a safety perspective. And I, probably if
18 anything, have a tendency to err on the side of the employee
19 whenever it comes to those kinds of events. In other words, if
20 I'm not sure, I'm not going to -- we aren't going to make
21 something up, but we're not going to embellish, so that an
22 employee is charged accordingly.

23 Now, as far as the discipline and the labor agreement,
24 that's something that I've been fortunate and been able to not be
25 involved in.

1 Q. And just to be clear, we haven't heard anything with
2 regard to incidents, you know, specific examples. It's been just
3 more maybe just the perception or the concern has varied, the
4 concern with that issue has varied. So it may just be completely
5 based on their perception and their own experience.

6 A. It could be. We definitely, we're always -- well, we do
7 work with labor relations for certain things. You know, because
8 we're looking at now in our health and fitness program as well as
9 with labor, to where they can wear a fitness monitor, you know,
10 along that line, and we were asked to look at that to make sure
11 that it wasn't -- you know, it didn't violate the distracted
12 driving policy, but as long as it was a passive device and it
13 didn't have an interaction. So we do work with them on that to
14 promote safety.

15 Q. Okay. So you also mentioned a whole variety of safety
16 communications and it's with the different safety programs. At
17 what level does all of that information trickle down to the line
18 employee? Obviously there's a lot of things going on behind the
19 scenes that they wouldn't -- they would see the output but not the
20 actual program itself. Which sort of initiatives out of, like,
21 the Safety Measurement System, for example, would a line employee,
22 would you expect them to be aware of that program, or are they
23 more aware of sort of the actions that are taken as a result?

24 A. I think they'd be more aware of the actions. But
25 hopefully they're also aware of the trending. Because as we

1 produce the reports, we would like them to look at that.

2 Now, one of the things that WMATA has done recently,
3 every employee now has an email address, and that's been probably
4 just in the last year, that we can actually push out
5 communications. Up until that point, you know, over 12,000
6 employees, I don't know maybe half had email access, where now
7 we're providing them email that they can either get that email
8 through a kiosk. We're trying multiple media, where everything
9 from posters, reports, emails. Our phone system now allows -- I
10 think the only one that can do it is the general manager's office,
11 can send an email to everybody's voice mailbox because they have
12 that.

13 We're starting home mailings. I missed the deadline
14 where we're going to mail to every employee's home, because we're
15 concerned with off-the-job injuries as well, since we know that
16 for every one workplace injury, there's nine off-the-job injuries.
17 We're going to be providing *Family Safety and Health* to them on a
18 quarterly basis that to basically encourage and inspire safety.
19 We don't just want to be safe at work, we want to be safe at home.

20 But, and I guess that's a long way around, we're working
21 to get out greater means because not everybody gets certain
22 things. But we do, we're going to home mailing, which in a lot of
23 companies are getting away from home mailing because it's
24 expensive, you know, for the postage to 12,000 employees. But
25 that's one of the things that we're going to do, that we're doing

1 now and started for important messages.

2 Putting ads in the paper that hopefully if they read --
3 I brought one that I was just asked recently to do that went in
4 *The Express* -- well, it's March 2015, and this went in on
5 Thursday, a message from Metro's chief safety officer. So we
6 publically put that out there for that ad to get out to -- so that
7 hopefully if our employees -- if nothing else, they may pick up
8 *The Express* because it's free on their way into the train station.

9 So we're -- with that, our intranet homepage, I did a
10 video on fatigue that I basically informed everyone on how I
11 realized that I had obstructive sleep apnea and how my wife
12 | thought that I died, and we did a video and that's on the WMATA
13 intranet homepage that anybody can go in and see. We do --
14 general manager does weekly safety messages to employees. So that
15 comes out.

16 | So there are ~~multi,~~ multiple different media sources
17 that, for me, for one, it's almost hard -- somebody almost has to
18 live in a cocoon, I think, not to be aware of some of the things
19 that we're putting out. But we're trying every feasible,
20 responsible way that we can actually get an employee's attention,
21 as well as the public.

22 Q. So it sounds like that even if they wouldn't know the
23 ins and outs of the actual SMS, they have a lot of avenues to get
24 the products out of that?

25 A. Yeah. We're data mining. Yes, sir. The SMS is a data

1 mine that we're able to develop our trends, analyze, and then
2 publish at a high level the results and what we can do better.

3 Q. And the safety committee structure, we talked about the
4 supervisors doing observations that feed into that and then the --
5 would any sort of line employee have an opportunity to participate
6 in the local committees? Are they all part of that --

7 A. They can be.

8 Q. -- process as well?

9 A. If they want to take it to the local safety committees,
10 and I'm not going to tell you I met all of them because there's
11 quite a few local safety committees throughout WMATA. I'd have to
12 find out how many exactly that we have, because I don't stifle
13 anybody from having a safety committee or a group or a safety talk
14 that's there. But there's an announcement that's normally posted
15 in the employee lounge when the safety committee is. We publish
16 -- work with the facilities, because we want them to own their
17 safety committees. But we have a safety officer attend with them.
18 And now, you know, Chief Pavlik has a transit police officer
19 attending at those. And it's -- even though you have folks that
20 are, like, standing members, others are allowed to join in if they
21 want to join into the safety committee, hear what's being
22 discussed and what's going on.

23 And then the intent is, with those committees, for
24 something that they can't resolve at their local level with the
25 superintendent, they elevate it to their departmental department

1 head at their departmental committees. And now those meet less
2 frequently. They're -- actually, bus meets monthly, but then they
3 have what they call their large group quarterly. And then the
4 executive.

5 So everything can rise as high up as the executive
6 safety committee, where the general manager, with certainly input
7 from the executive team and myself, looks at it and until it's
8 resolved. And one of the things that we like to do is close the
9 loop with the employees, and that's one of the reasons we're going
10 to start this communique, say, okay, here's what we heard, here's
11 what we're doing, here's what we've done.

12 Q. So it sounds like that's open to anybody?

13 A. Open. Anybody can report to the -- they know who their
14 safety -- we put out a safety bulletin with the safety officers,
15 for all the -- with their cell phone number and their email
16 address on green paper. And then their pictures are up typically
17 at the facilities. So if they can't work through their local
18 safety committee, they get their local, their -- what we call
19 regional safety officer in my group, that they can go to. And
20 some things folks don't have a problem elevating, and normally the
21 safety officers will champion for them anything that's a safety
22 issue.

23 Q. And how about the SSPP? Is that something that a line
24 employee would typically be aware of or is that more of a
25 management document?

1 | A. It's primarily more ~~effor~~ a-management, but it is put on
2 | the intranet, where every employee is -- can read it, where we try
3 | to put out the documents. When it gets changed or when it's
4 | revised, then it normally gets a little blurb, you know, revised
5 | System Safety Program Plan.

6 | And I don't know that most of it's -- sometimes it's
7 | difficult to get the folks that should be reading it to read it,
8 | but now I think we've had success because the general manager has
9 | held them accountable for it because -- and that's why we have the
10 | executive team all sign off on that cover page. And folks have
11 | realized now when you sign your name, that means you're going to
12 | be held accountable to that. If you're going to be held
13 | accountable to it, it's normally going to end up in your
14 | performance plan and your performance plan can, I'm not saying it
15 | will, could result in possibly a performance adjustment. And you
16 | hope it goes up.

17 | So that is something now that is part of all
18 | management's performance plans, is safety. That's a component.

19 | Q. Okay. I think that's all I have. Thank you.

20 | MR. GORDON: Thank you. ~~Jim~~-Joe Gordon, NTSB.

21 | MR. FLANIGON: Need a break, Jim? We can --

22 | MR. DOUGHERTY: I can if you guys want. Sure. I know
23 | you have Mr. Downey in about 25. I don't know --

24 | MR. FLANIGON: It's up to you.

25 | MR. DOUGHERTY: Sure, I could go probably go grab a

1 bottle of water.

2 MR. GORDON: All right. Let's take a break.

3 MR. FLANIGON: Okay.

4 (Off the record.)

5 (On the record.)

6 MR. FLANIGON: Okay. After a short break we're back,
7 and joining us now is Mike Hiller, H-i-l-l-e-r, also from the
8 NTSB, and we'll let Mike ask some questions.

9 MR. HILLER: All right. Thank you.

10 BY MR. HILLER:

11 Q. Jim, in your experience with oversight agencies, how
12 would you characterize the Tri-state Oversight Committee insofar
13 as their approach to oversight?

14 A. My experience with them and their approach has been that
15 they actually are more involved -- want to be more involved in
16 means and methods or going, you know, in a far deeper versus an
17 oversight approach, based on certainly my over 30 years in this
18 business, for the way they conduct their business, at least at the
19 current TOC as we know it today. We provide extensive information
20 for them that we believe certainly more than satisfies their
21 request.

22 However, then they want to get into the more of, instead
23 of an oversight, I would almost call it an inspection type mode
24 with every component of every subsystem and every system, versus
25 looking at performance and overall oversight of an item such as,

1 and I'm just using this example, a railcar or any kind of a
2 structure, that it's -- sometimes I think that looking, certainly,
3 you know, on a broad scope, that I would consider oversight more
4 of a broad scope and performance and larger scale events with
5 possibly periodic reviews that go more in depth.

6 Our experience currently is that I feel that we are --
7 we at WMATA are expending considerable, and I would emphasize
8 considerable, resources to meet the request of the TOC, because we
9 are committed to complying with the TOC, even when it goes above
10 and beyond the 49 C.F.R. 659 rule. And because it's -- we are
11 reminded in their state, that that is the minimum and they can ask
12 us for anything they want at any time.

13 Q. Thank you. Would you say the TOC is achieving the
14 minimum requirements of the rule, which is 49 C.F.R. 659?

15 A. In some areas I would say yes. However, in other areas,
16 you know, I have concerns that I would, if I were in their place,
17 in their stead, that I would feel that they should be focusing
18 more on. Review of such things as trends, possibly, and analysis,
19 you know overall arching, employee injury statistics and a trend
20 of a different department for review and consideration, and to
21 provide some worthwhile or beneficial findings and even with
22 recommendations.

23 MR. DOWNEY: I'm here, but just take your time.

24 MR. FLANIGON: Okay. Thank you, Mort.

25 BY MR. HILLER:

1 Q. And I guess a follow-up to this is, could more be done?

2 A. More could be done if less was focused on the specific
3 or the -- and I'll put getting into the weeds of items, I believe
4 certainly that more could be done that would be beneficial to
5 comply with the 659 rule. And as we move forward into MAP-21 and
6 safety management systems, that those of us in transit and
7 oversight are aware is certainly on the horizon to look at what
8 could be done for -- to actually improve the oversight and
9 actually be more efficient, more effective in the performance of
10 their tasks.

11 Q. Are you aware of the TOC leading any of its own
12 investigations on WMATA property?

13 A. No, sir. They participated with us in a couple, but
14 WMATA took the lead, has led all of them.

15 Q. Well, how many investigations have WMATA and TOC worked
16 together on?

17 A. One.

18 Q. One? Tell me about that one.

19 A. That one would be the contractor fatality at Union
20 Station October 13, 2013. However, I do believe that they
21 responded after they found that the NTSB was responding.

22 Q. How would you characterize their participation with you
23 on those investigations?

24 A. I would see that as a -- I don't see the effectiveness.
25 I know that the concern on that one seemed to be the -- TOC's

1 concern was the placement on the vehicle of a hose reel, versus
2 even some of the other events that occurred from the incident,
3 from the accident itself, is the basic thing that they were
4 concerned of is where the hose reel was actually located on the
5 prime mover and did we develop procurement specifications
6 correctly, and versus even looking at the root cause of why the
7 incident occurred and what could be done to, you know, avoid a
8 similar incident in the future.

9 Q. Do you feel the Tri-state Oversight Committee positively
10 impacted safety here at WMATA?

11 A. I have not seen a great deal of benefit. I think in
12 some occasions they have provided some insight that has been
13 useful, but that has been predominantly in the past, if you will,
14 versus current today. So I would almost say for the last 2½ to 3
15 years, I've seen the state safety oversight group that we have as
16 more of a burden than a benefit.

17 Q. So if I ask you provide examples of some major
18 accomplishments at WMATA as a result of the Tri-state Oversight
19 Committee's oversight, could you provide it to me?

20 A. The only thing that I can recall in my tenure has been
21 they actually did provide some benefit when we were looking at
22 fatigue for the rail operators, and it kind of shined a light for
23 us to even dig a little bit deeper; however, our general manager
24 had even asked us to look into biomathematical modeling at that
25 time. But the TOC did prepare a paper through the assistance of

1 their consultant to actually make a presentation to the WMATA
2 Board of Directors on that. But that is probably what I have seen
3 has been the benefit to the oversight program in 5 years, and that
4 has been -- I think that was late 2012.

5 Q. Thank you. When the Tri-state Oversight Committee
6 visits WMATA during a triennial audit, do they inspect any
7 mechanical, track, power, or automatic train control systems or do
8 they audit processes and records?

9 A. The only, the triennial audit that was done at one time
10 was actually in June of 2010, and they did look at processes and
11 they did look at records. They did ~~do~~ some site inspections.
12 They used multiple consultants. However, in their report, they
13 did note some -- there was a few beneficial items that came out of
14 that report in 2010.

15 However, unfortunately some of the other things that --
16 we actually had had a finding of cobwebs at the end of a corridor
17 in a rail station. And one of the things that they do, rather
18 than cluster conditions, are list them as multiple conditions. So
19 it came out that there were many findings, which actually when you
20 condense them under like findings, you would've had many fewer
21 findings, as we -- and what it did for us was then we had to show
22 the board that we -- our board of directors, that we actually were
23 doing things to improve, versus dealing with some issues that were
24 housekeeping related but not necessarily safety.

25 And today, if I could, we haven't thought their process

1 they would like -- that they do today, is actually conduct the
2 inspections with us or I'd say the internal safety reviews with
3 the WMATA staff, and then they do their own independent review
4 alongside of us, which has been somewhat beneficial. But their
5 reports take quite a while to get out and they have now decided to
6 treat findings of noncompliance and findings of compliance as
7 equal findings that they expect WMATA to develop corrective action
8 plans. Even though they agreed that we were compliant, they want
9 a corrective action plan because they made a recommendation.

10 Q. That's confusing to me. Can you explain that a little
11 bit for me please?

12 A. As far as when if -- signage, for example, and I'll use
13 the Dulles Silver Line as an example, if I may. The Virginia
14 State Fire Marshal with the Department of General Services, when
15 they inspected and said how they want the signage for the facility
16 for passenger/customer egress from the facility, the TOC, when
17 they did their review, disagreed with the state fire marshal, and
18 in their case had a meeting, we were told -- we don't know the
19 results. But for us, after the project has been completed,
20 they're looking for us to change egress signage that if it didn't
21 meet the criteria for the Commonwealth of Virginia, we never would
22 have gotten our certificates of occupancy.

23 So now they're taking items that now we are spending
24 staff time and resources to actually look at this and where we
25 have had -- where we have went back to the state fire marshal, who

1 has, you know, verbally said, don't make any changes unless you
2 hear from me.

3 Q. Thank you. I understand now.

4 You mention the triennial audit of 2010. The next
5 triennial audit would've been 2013?

6 A. Or '14.

7 Q. Or '14? Has this been done?

8 A. Not in the same fashion. Again, as I've said, they've
9 taken the 21 elements of the system Safety Program Plan and they
10 wanted to break it up to where they're doing more monthly reviews
11 and then completing a compilation at the end of that 3 years, 36-
12 month, and call that their triennial review. And that cycle has
13 not been completed yet.

14 Q. Does the Tri-state Oversight Committee or the Federal
15 ~~Transportation~~ Transit Administration, or the FTA, lacks the
16 regulatory language to actually engage in on-site inspections?

17 A. I believe there's certainly room for improvement. I
18 would prefer, in my business, and maybe it's being formerly also a
19 police officer, that you have a rule book or, if you will, we had
20 laws and ordinances that you comply with similar to, like, what
21 maybe the FRA has, that you're either -- you're in violation or
22 you're not in violation. So currently, today, I would say that
23 it's not a black and white or a crystal clear to know what the
24 regulation really is and what you need to do to comply. And when
25 there is a lack of consistency from state to state and each state

1 has the opportunity to draft their own rules, and under the
2 current system, it's more of an -- one's opinion versus a proven,
3 you know, a proven status of something to where it becomes a rule
4 that one must follow.

5 And I guess the one that I'd say, if they say that the
6 track gauge must be plus or minus a half an inch in tolerance, to
7 me that's a rule. I know if my track width is 58 inches, then I'm
8 considered in tolerance, if I'm 57½ inches to 58½ inches. And I'm
9 just -- put that out as an example. Versus, well, I think your
10 track gauge is too wide, and there's nothing that gives me
11 anything to actually follow.

12 So your answer is I feel that there's a lack of
13 regulation if you are going to have oversight. And then if you're
14 going to take that oversight and possibly apply enforcement and
15 penalties, be it civil or otherwise, to where dollars are withheld
16 -- and in the case that I understand it, is the oversight could
17 recommend to the Federal Transit Administration to withhold grant
18 dollars forthcoming to that agency -- I'm not sure that I see
19 where that benefits safety, and whenever you're withholding
20 dollars that could be used to improve safety, and especially when
21 we don't have a playbook to actually provide that guidance going
22 forward, if you will, so that you know what is compliant versus
23 where you're at.

24 In our case, we have the Commonwealth of Virginia, the
25 State of Maryland, and the District of Columbia. Whose rules

1 would we comply with if you don't have a rule book, a playbook, or
2 something to serve as that guidance? And then my concern is then
3 you're going to take, based on somebody's opinion, you know,
4 versus development of a regulation based on science or other data,
5 to where you apply something that is going to have potentially an
6 adverse effect without a logical reason, in my opinion.

7 Q. Thank you. The Tri-state Oversight Committee or this
8 oversight committee that oversees WMATA is unique because there
9 are three jurisdictions. In your experience with the Tri-state
10 Oversight Committee, who do they answer to, jurisdictionally?

11 A. They each have their own policy group that they answer
12 to directly. They don't have a single head, if you will. At one
13 point in time we were told that all decisions had to be made
14 unanimously by the three jurisdictions. Today that doesn't seem
15 to be true. There's often a dissenting jurisdiction, but it turns
16 that it seems to be the -- at the pleasure of the chair for the
17 Tri-state Oversight Committee.

18 And if we want to, for example, appeal a decision of the
19 TOC, we have to go and try and get the policy body, because
20 typically we don't, at my level, deal with the secretary of
21 transportation for the jurisdictions or the highest level. We can
22 go up, you know, certainly to the policy body and request a
23 meeting, which we've done.

24 We have done that now twice in the last few months due
25 to conflicts, concerns and issues when we believe we are trying to

1 do something that significantly promotes safety for our customers
2 and we're getting pushed back from the oversight committee for an
3 administrative concern that they know has been actually completed.
4 But because they're not satisfied because they believe -- either
5 they don't understand or if they believe a piece of documentation
6 is missing, although admittedly it was an administrative function,
7 but to where there was a suggestion to not actually utilize the
8 equipment. That has come at great expense to the region, to the
9 taxpayers, but not necessarily for the benefit of safety for our
10 riders.

11 Q. Does the Tri-state Oversight Committee look at WMATA's
12 standards and ensure the agency meets its own standards? An
13 example would be, again, track gauge, work-rest cycles, cell phone
14 use policies, speed adherence, maintenance cycles?

15 A. They pick and choose. Occasionally. They have done
16 some speed adherence and they've done a roadway worker protection
17 review. Recently they did a radio review that -- I'm not sure --
18 I believe we just received the report. I haven't had an
19 opportunity to read, to review that report. But it's a kind of a
20 pick and choose, and I believe some of the activities are
21 completed possibly due to what they read in the local media or
22 press.

23 Q. Do current FTA regulations establish standards for a
24 transit agency as part of the 21 items contained in the System
25 Safety Program Plan provided to the FTA?

1 A. There are no exact standards, if you will. It's just to
2 compliance to the agency's own System Safety Program Plan. And
3 | there's not a -- and if I'm ~~hitting~~responding ~~the~~-right what your
4 question is, is that where it says "thou shalt conduct monthly
5 preventive maintenance inspections on the brake systems of the
6 railcars," no, there's no standard of that nature.

7 Q. Okay. WMATA has a new track geometry vehicle. Can you
8 just explain in general terms what this vehicle does?

9 A. As general as I can put it is that it assesses the track
10 condition, which checks everything from the track gauge, gives
11 them a visible, a computer diagnostic of the track and the, I will
12 say, the infrastructure of the track, if there's any lateral
13 movement of the track, and that it basically allows us to assess
14 | the conditions of our track to make sure that we -- ~~or~~-fix or
15 repair if something's out of tolerances within the track and
16 structure system.

17 Q. How long have you had this vehicle?

18 A. I believe it's been running for about 18 months.

19 Q. Has the Tri-state Oversight Committee participated in a
20 ride-along inspection?

21 A. Not that I'm aware of.

22 Q. Have they been offered this opportunity?

23 A. I would have to check. I don't know.

24 Q. Okay. Does WMATA share any of the data from the track
25 geometry car's vehicle inspection with the Tri-state Oversight

1 Committee?

2 A. Again, I would have to check, but I don't believe
3 they've requested it to date.

4 Q. Does the Tri-state Oversight Committee hire contractors
5 or consultants to do their oversight?

6 A. Yes. ~~Two~~Who actually work with them. There's only
7 three representatives from the TOC, so they do hire a consulting
8 firm that does a good portion of the work.

9 Q. How would you characterize the work? Is it actual
10 physical inspections of systems and infrastructure or is it
11 inspections of records and processes?

12 A. I would say that their consulting firm does some of
13 both. And they serve as their -- providing the documentation and
14 the reports, but they are involved in both. They're involved in
15 the on-site and the field inspections, as well as they participate
16 and do a good bit of work for the administrative function also.

17 Q. Okay. What's been your experience with the Tri-state
18 Oversight Committee's enforcement actions against WMATA?

19 A. I'm not aware of any specific enforcement actions that
20 the Tri-state Oversight has taken against WMATA.

21 Q. In your experience, can they leverage enforcement
22 actions against WMATA?

23 A. The only way that I'm aware of is they do have the
24 ability to go back to the Federal Transit Administration and
25 request a withholding of federal grant dollars, up to 5 percent,

1 as I understand it. But that, to the best of my knowledge, hasn't
2 happened in my tenure.

3 Q. Let me see. I have no further questions at this time.

4 A. Thank you, sir.

5 BY MR. GORDON:

6 Q. Joe Gordon, NTSB. Going back to, I guess, more
7 specifically to the January 12th incident and following the
8 incident, there was an early actions plan that was put out, 10
9 early actions that were identified by WMATA. I think that
10 document was dated January 20th. In your role, in your position,
11 was the implementation of any of those early action items
12 something that you were tasked with as far as did any of that fall
13 under your job to implement those new early action items?

14 A. No, not specifically. We have been involved in the
15 monitoring of those 10 early action items and that there's been --
16 you know, they've been closed out at that point. Now we have to
17 work on the results of, for example, the studies to see what we
18 can improve. But we have been very involved, like, the
19 inspections of the fans, things along that line, the safety
20 department. But the actual responsibility rested with others
21 within the operations group. ~~But~~ we certainly are there to
22 assist and inspect and ~~we~~, you know, identify possible issues or
23 problems.

24 Q. Okay. Have you identified any issues or problems with
25 the implementation of those to date?

1 A. The ones that -- I would have to review them. I can't,
2 you know, basically cite specifically. I know that we were
3 definitely looking at what we could do for the fans. We know that
4 we ended -- you know, ultimately ended up with a problem with the
5 fans, but -- with a fan, let me put it that way, and particularly
6 for this incident, that was identified and that we discussed
7 certainly at NTSB group meetings. But we wanted to actually do a
8 full system-wide check and make sure that the fans were
9 functioning properly, so we did have our fire marshal, along with
10 others, accompany the groups making the inspection.

11 I'm not going to say they were at 100 percent, but
12 pretty close, once we knew, because they jumped on it and did the
13 inspections. And now I am actually -- the safety department, but
14 as directed by the chairman of the board of directors, I am
15 engaging a peer review team to actually look at the rail
16 operations control center and its function. And that will be
17 starting next week. But actually that has been my task that I'm
18 working on, but that wasn't necessarily on ~~that~~the 10 early
19 action items.

20 Q. Okay. Okay. So that kind of answers, or leads into two
21 of my other questions, which one was, have any other things been
22 identified since those 10 early action items? And you mentioned
23 the review of the ROCC. With that, the -- so the safety, as your
24 role in the safety department, you spoke at length when we first
25 started the interview about, you know, safety is basically what

1 you do. Does the training of the employees for standard operating
2 procedures, does their training, does the safety department have a
3 role in evaluating the training, the effectiveness of the training
4 and the employees' understanding of the training that they
5 receive?

6 A. It depends on the training program. We do not conduct
7 the training. We do, through our -- the corporate quality group,
8 which is one of the groups within the safety department, look at
9 the training that the rail operator receives. We have not looked
10 at the training of the Rail Operations Control Center personnel to
11 date. But that's one of the things we'll be doing with APTA and
12 then going forward to make sure that, you know, with training.
13 But we have not been a part of that specific training component.

14 There are some bus operators, rail operators, you know,
15 as far as the training, we don't conduct it. We're not
16 responsible to actually hold that training, but we've had folks,
17 you know, conduct reviews of the training that is conducted. In
18 fact, every one of our bus people that are in the safety
19 department do carry a valid commercial driver's license. And
20 behind that is, since you're observing and evaluating individuals
21 that do have commercial driver's license to drive the buses on the
22 streets, that we wanted to make sure that they pass the same
23 licensing that was required.

24 But as you know, there's no licensure for the ROCC or
25 for that specific group, so we actually don't have anybody that's

1 certified in that.

2 Q. Okay. Okay. And one final question. You spoke about
3 the good faith challenge available to roadway worker, primarily
4 roadway worker protection.

5 A. Yes, sir.

6 Q. Is that good faith challenge available to any other
7 employee within WMATA at this time?

8 A. I would say not in the formal -- as formal as it is with
9 the RWP, with the roadway worker protection. But as far as we're
10 concerned, any employee is allowed to raise any safety concern.
11 And I could tell you that, you know, that we do look at them. I
12 get them; I receive safety concerns that come in through the
13 general manager's office to look at also.

14 We had employees that raised concerns, as I'd mentioned
15 earlier, on whether or not what we call our road mechanics had
16 been trained adequately for the new 7000 series cars, because they
17 thought they would all be a part of that. But it was actually a
18 select group that I don't -- I can't say how they were selected
19 because I don't know, but that had been identified as we -- you
20 know, and then others will be trained as we move forward. But we
21 do have a core of individuals for that training, but they were
22 able to raise that concern, is where I'm going with that, to say,
23 hey, I'm a road mechanic; I haven't been trained.

24 Q. Okay.

25 A. And that got raised right up to the general manager,

1 came over to the safety department, and we actually had a meeting
2 with the individual on site within a few hours of that coming in,
3 | which then it did get some -- I'll just call some ~~wideride~~-on
4 action from other employees that then we addressed down the line
5 to where it even raised to the Local 689 president.

6 Q. Okay.

7 A. And but we believe we have addressed those concerns and
8 there has been no retaliatory action for somebody raising those
9 concerns.

10 Q. Okay.

11 A. Because we want them to feel comfortable and confident
12 and safe in performing their job, so -- and if they can't do it,
13 they can say, I'm not trying to -- we allow individuals to say I
14 don't -- you know, I haven't been trained on that. And that's not
15 held against them and they, you know, aren't going to be made to
16 do a job that they haven't received the adequate training to do it
17 safely.

18 Q. Okay. And there's less formal good faith challenges
19 from other departments. Are those tracked? Are they maintained
20 anywhere in the good faith challenge track?

21 A. What we do is we enter them in into the safety hotline.
22 | If I ~~get them to receive it directly~~, I send them to the
23 individual that inputs them, and then they get assigned and then
24 as I get updated feedback, like with this, that gets added through
25 the safety hotline.

1 Q. Okay. Thank you. I have no further questions.

2 BY MR. FLANIGON:

3 Q. Okay. I have just two to follow up on something Mike
4 asked you about the TOC. You mentioned an investigation that the
5 TOC basically did on their own with your support of the --

6 A. It was ours, sir.

7 Q. -- of the employee fatality or the contractor fatality?

8 A. Contractor fatality. They were -- they served on the
9 committee. We did the report.

10 Q. You did the report; they served on the committee. Okay.
11 I perhaps misunderstood. So TOC actually coming in and performing
12 an investigation that they led, that hasn't happened?

13 A. That has not happened in my tenure.

14 Q. Okay. But on --

15 A. Sorry, I --

16 Q. -- that particular investigation where they
17 participated, with WMATA taking the lead, was that the TOC members
18 and/or a contractor, if you recall?

19 A. I recall the TOC members, but I think they had one of
20 their contractors with them also.

21 Q. Okay. And then lastly, I was a little unclear on the
22 triennial review that TOC is required to do under the regulation.
23 It was due in 2013/14. And is there a final report on that
24 review?

25 A. Not yet.

1 Q. Not that you have anyway?

2 A. Not that I have.

3 Q. Okay. I just wanted to be clear on that. That's all.

4 MR. FLANIGON: We're good? All right.

5 Thank you, Jim. I appreciate the time and all the
6 information that you provided us.

7 (Whereupon, the interview was concluded.)

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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: WMATA INCIDENT AT L'ENFANT PLAZA
STATION, WASHINGTON, D.C.
JANUARY 12, 2015
Interview of James Dougherty

DOCKET NUMBER: DCA-15-FR-004

PLACE: Washington, D.C.

DATE: April 16, 2015

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been transcribed
to the best of my skill and ability.

Karen A. Stockhausen
Transcriber